

Douglas County Superior Court

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PREFACE

1. Promulgation. These rules shall be known as the Local Rules for the Superior Court of the State of Washington for Douglas County. Copies of these rules will be filed with the Clerk of the Court for Douglas County and will be distributed to all law offices in Chelan and Douglas Counties. Additional copies will be available at the office of the Clerks for Douglas County. These rules will be effective September 1, 1999, and supersede all prior rules of these courts.

2. Numbering. Consistent with CR 83(a), Washington Court Rules, these rules conform in numbering system and in format to those rules and facilitate the use of both. The number of each rule is preceded by the abbreviation "LR" designating the rule as local to these courts and supplemental to the corresponding Washington Court Rule.

3. Revisions and Additions. These rules have been prepared in loose-leaf form to facilitate revision, additions or deletions in the future by page without the necessity of republication.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF DOUGLAS

In Re Special Rules of the)	
)	
Superior Court for Douglas County)	ORDER AMENDING LOCAL
)	COURT RULES FOR
)	DOUGLAS COUNTY

IT IS BY THE COURT ORDERED that LR 7(E) and LR 98.10, shall be added.

IT IS FURTHER ORDERED BY THE COURT that LR 77, LR 80, LMAR 1.1, LMAR 2.1, LMAR 2.1(a)1, LMAR 2.1(a)2, and LMAR 2.1(b) shall be modified, and the Table of Contents be modified to including these changes, to the Douglas County Local Rules, as attached, and that the be adopted as permanent local rules, effective September 1, 2005.

DATED this ____ day of June 2005.

JOHN HOTCHKISS

LR 5 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(d) Filing.

(5) Documents Not to be Filed. Photocopies of reported cases, statutes or texts shall not be filed as an appendix to a brief or otherwise but may be furnished directly to the judge hearing the matter. Documents or copies thereof produced during discovery and other items which should properly be received as exhibits rather than as a part of the court file shall not be included in the court file.

(6) Case Information Cover Sheet. Each new civil and domestic case filing shall be accompanied by a Case Information Cover Sheet prepared and submitted by the party filing said new civil or domestic case. Attached as Exhibit A to this rule is the form of the Case Information Cover Sheet.

LR 7 PLEADINGS ALLOWED; FORM OF MOTIONS

(b) Motions and Other Papers.

(1) How Made.

(A) Notes for Motion Calendar; Time for Filing. Any party desiring to bring any motion prior to trial, other than a motion for summary judgment, must file with the Clerk and serve all parties and the Judge at least five (5) court days before the date fixed for such hearing. A COPY OF THE MOTION AND ALL SUPPORTING DOCUMENTS SHALL BE DELIVERED TO THE DOUGLAS COUNTY COURTHOUSE OR MAILED TO THE JUDGE. THE MAILING ADDRESS FOR THE DOUGLAS COUNTY SUPERIOR COURT JUDGE IS P. O. BOX 488, WATERTVILLE, WASHINGTON 98858. The documents should include a Note for Motion, the motion and supporting documents.

(i) Note for Motion - Dissolution Actions. See Washington Pattern Form.

(ii) Other Actions. The note must contain the title of the court; the date, the time when the same shall be heard; the words "Note for Motion", the names of the attorneys for all parties or parties pro se; the nature of the motion; and by whom the motion is made. Attached as Exhibit A to this Rule is an example form of a Note for Motion that may be used for Douglas County cases. Any sections of Exhibit A that do not apply to the particular motion may be deleted from the form prior to filing. This note for motion must be signed by the attorney or party pro se filing the same, with the designation of the party represented.

The note or other document shall provide a certificate of mailing of all documents relating to the motion.

Responding documents and briefs must be filed with the Clerk and copies served on all parties and the Judge of Douglas County, no later than noon (2) court days prior to the hearing. Copies of any additional responding or reply documents must be filed with the Clerk and served on all parties no later than noon of the court day prior to the hearing.

(D) Late Filing; Terms. Any material offered at a time later than required by this rule, upon

objection of counsel, may be rejected by the Court, or the matter may be continued and the court may impose appropriate terms or sanctions.

LR 7(E)

(E) Filing by facsimile with the Court, and serving parties by facsimile, shall be pursuant to General Rule 17.

L 8 SHOW CAUSE ORDERS

(g) Certified copies of show cause orders shall not be issued by the Clerk of the Court without payment in advance.

LR 10 FORM OF PLEADINGS

Any document or correspondence presented to the Court for filing which does not have the correct cause number on the face of such document or correspondence may not be filed and may be returned to the presenter.

LR 16 PRETRIAL PROCEDURE AND FORMULATING ISSUES

(c) Pre-Trial Conference. Any order for a pre-trial conference shall be in the form of and include the provisions as set forth in the Exhibit "A" attached to this rule. The pre-trial conference shall be held not less than two weeks prior to the trial date.

(d) Pre-Trial Order. A pre-trial order in the form of Exhibit "B" attached to this rule shall be prepared by counsel within ten (10) days after the conclusion of the pre-trial conference.

(e) Exhibits. Parties shall notify the trial judge and the opposing party by letter if that party anticipates offering 25 exhibits or more at time of trial. Said notice shall be given no less than 2 weeks prior to the trial date.

(f) Settlement Conference.

On Court's Motion. The court to which a case is assigned for trial may, upon its own motion after a trial date has been set, order a settlement conference in any pending case, and a settlement conference shall be held.

(2) Order for Settlement Conference. Upon the entry of an order for a settlement conference, the judge shall fix a specific date and hour for the conference.

(3) Preparation and Attendance. The attorney personally in charge of each party's case shall personally attend all settlement conferences and shall, not less than three (3) days prior to the date set for the settlement conference, serve on the assigned judge and the attorney for the opposing party a letter succinctly addressing the following:

- a. A brief factual summary;

- b. Issues regarding liability;
- c. Issues regarding damages, both special and general;
- d. History of any settlement negotiations; and
- e. Current position on settlement.

Each attorney shall be prepared to discuss the foregoing in detail at the settlement conference.

(4) Attendance of Parties. The parties shall in all cases attend the settlement conference.

Parties whose defense is provided by a liability insurance company need not personally attend said settlement conference, but a representative of the insurer of such party, if such a representative is available in Chelan-Douglas counties, shall attend with sufficient authority to bind the insurer to a settlement. In the event such a representative is not available, counsel representing the party whose defense is provided by the insurer shall make a good faith effort to obtain settlement authority to bind the insurer to a settlement prior to the settlement conference.

Attendance of any party may be excused by the court where by reason of health, or other good and sufficient reason, compelling his personal attendance would be unduly burdensome. Whether or not the attendance of any party is required shall rest in the discretion of the Judge. Request for excuse shall be made at least three (3) days prior to the hearing.

(5) Proceedings Privileged. Proceedings of said settlement conference shall, in all respects, be privileged and shall not be reported or recorded. No party shall be bound unless a settlement is reached. When a settlement has been reached, the judge may, at the request of any party, in his discretion, order the settlement to be reported or recorded.

(6) Sanctions. Where a party has failed to comply with any of the provisions of this rule the court shall make such orders as are just which shall include the award of reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

LR 32 USE OF DEPOSITIONS IN COURT PROCEEDINGS

(a) Use of Depositions.

(6) Video Depositions. When presenting video depositions, a written deposition must also be filed. The videotape may be returned after the appeal period, regardless if it is published or not.

LR 37 FAILURE TO MAKE DISCOVERY; SANCTIONS

(f) Completion of Discovery. Unless otherwise stipulated to by the parties, or ordered by the Court upon good cause shown and such terms and conditions as are just, all discovery allowed under CR 26 through 37, including responses and supplementations thereto, must be completed no later than 35 calendar days prior to the date assigned for trial. Nothing herein stated shall modify a party's responsibility to seasonably supplement responses to discovery requests or otherwise comply with discovery prior to the 35-day cutoff.

LR 47 JURORS

(k) Counsel or the parties shall not contact or interview jurors or cause jurors to be contacted or interviewed after trial without first having been granted leave to do so by the Court.

LR 49 VERDICTS

(1) Receiving Verdict During Absence of Counsel. A party or attorney desiring to be present at the return of the verdict must remain in attendance at the courthouse or be available by telephone call. If a party or attorney fails to appear within 20 minutes of telephone notice to the attorney's office, home or other number, the court may proceed to take the verdict in the absence of such party or attorney. In such case, the jury shall be individually polled and the identity of any dissenting jurors recorded.

LR 52 DECISIONS, FINDINGS AND CONCLUSIONS

(a) through (e), Washington Court Rules

(f) In all actions tried to the court, counsel for each party shall, two days prior to trial, provide the Court and opposing counsel with proposed findings of fact and conclusions of law. Provided, that proposed findings and conclusions are not required in domestic cases of any kind, except that the court may, at its discretion, require proposed findings and conclusions, in a particular case or the parties may voluntarily submit such findings and conclusions.

(g) Time Limit for Presentation. In cases tried to the court, findings of fact, conclusions of law and a proposed judgment shall be presented within twenty (20) days of the court's oral or memorandum decision; provided however, that in the event post-trial motions are filed, the twenty (20) days shall run from the date of ruling on such motions.

In the event that said findings of fact, conclusions of law and the proposed judgment are presented to the court in excess of twenty (20) days of the court's oral decision, the party presenting such findings of fact, conclusions of law and proposed judgment shall, if requested by the court, prepare and file a transcript of the court's oral decision.

LR 56 SUMMARY JUDGMENT

(a) through (h), Washington Court Rules

Special setting. Douglas County summary judgments shall be heard by the Judge of Douglas County.

ALL MOTIONS FOR SUMMARY JUDGMENTS IN DOUGLAS COUNTY MUST BE SPECIAL SET. SPECIAL SETTINGS SHALL BE OBTAINED BY CALLING JUDGES' CHAMBERS IN DOUGLAS COUNTY (745-9063 or 884-9430) AND REQUESTING TO SET A MATTER ON THE JUDGE'S CALENDAR.

(j) Service and Filing.

A WORKING COPY FOR THE JUDGE OF THE MOTION, ALL SUPPORTING DOCUMENTS AND ALL RESPONDING DOCUMENTS SHALL BE DELIVERED TO THE COURTHOUSE OR MAILED TO THE JUDGE AT THE TIME OF FILING THE ORIGINALS. THE MAILING ADDRESS FOR THE JUDGE IS P. O. BOX 488, WATERTVILLE, WASHINGTON 98858-0488. IF WORKING COPIES ARE NOT RECEIVED, THE JUDGE MAY STRIKE THE HEARING.

Where depositions or interrogatories are a part of the evidence relied upon, counsel's affidavits, briefs and arguments must cite the depositions or interrogatories by page and line.

ANY MATERIAL OFFERED AT A TIME LATER THAN REQUIRED BY THIS RULE OVER OBJECTION OF COUNSEL SHALL NOT BE ACCEPTED AND CONSIDERED BY THE COURT EXCEPT UPON THE IMPOSITION OF APPROPRIATE TERMS OR SANCTIONS, INCLUDING THE RIGHT TO A CONTINUANCE IF REQUESTED.

Any motion for summary judgment or responsive pleadings to a motion for summary judgment shall list and identify all evidence the Court should consider.

(k) Confirmation. On any motion for summary judgment in Douglas County, counsel for the moving party shall contact the Court Administrator three court days preceding the date set for hearing and advise whether the motion will be heard. If notification is not made, the motion may be stricken for resetting.

LR 58 ENTRY OF JUDGMENT

(m) Judgment on a Promissory Note. No judgment on a promissory note will be signed until the original note has been filed with the Clerk, absent proof of loss or destruction.

LR 59 MOTION FOR RECONSIDERATION

(e) Hearing on Motion.

(3) Nature of Hearing.

(A) A motion for reconsideration or for a new trial shall be submitted on briefs and declarations or affidavits only, without oral argument, unless the trial judge, on application from counsel or on the judge's own motion, allows oral argument. The judge will notify counsel if oral argument is to be allowed. Copies of such motions for reconsideration, copy of note for motion calendar and responses thereto shall be delivered to the judge at the time of filing.

(B) The scheduled hearing date will not ordinarily involve oral argument. However, it will be the earliest date that the court will consider the merits of the motion. In the event that oral argument has been allowed, counsel for the moving party shall notify the Clerk of the Court by noon, three days preceding the date set for hearing and advise whether the motion will be argued.

LR 65 INJUNCTIONS

(b) TEMPORARY RESTRAINING ORDER; NOTICE; HEARING;
DURATION.

(1) Notice to Opponent. Failure to give notice as required by CR 65 may result in the imposition of terms and/or sanctions on the moving party.

LR 77
SUPERIOR COURTS AND JUDICIAL OFFICERS

(o) Court Calendar for Douglas County

The Judge will hold Probate and Law and Motion Calendars the second and fourth Tuesday at 1:30 p.m.

Adoption hearings will be held at 1:30 p.m., in chambers, on the Law & Motion Calendar,

Douglas County's Court schedule is as follows:

Monday: Criminal Calendar at 9:00 a.m. and 2:00 p.m.

Tuesday:
Domestic violence hearings: 1:00 p.m.
2nd and 4th Tuesdays: Civil Calendar at 1:30 p.m.
1st and 3rd Tuesdays: Truancies at 3:00 p.m. at District Court in East Wenatchee
3rd Tuesday Civil Calendar at 1:00 p.m. at District Court in East Wenatchee

Wednesday: Juvenile Calendar at 9:00 a.m. and 1:30 p.m.
3rd Wednesday Dependency Calendar at 1:00 p.m.

Thursday:
2nd and 4th Thursdays: Criminal trials at 9:00 a.m.

To obtain a special setting, contact the Court Administrator at 509-745-9063.

A COURT REPORTER WILL NOT BE PROVIDED FOR ANY MATTER
SCHEDULED ON ANY CALENDAR. ALL MATTERS WILL BE DIGITALLY AUDIO RECORDED.

(a) Domestic Relations Show Cause hearings requiring more than 30 minutes will be scheduled by special setting.

A COURT REPORTER WILL NOT BE PROVIDED FOR ANY MATTER
SCHEDULED ON ANY CALENDAR. ALL MATTERS WILL BE DIGITALLY AUDIO RECORDED.

(2) Holiday Scheduling - These Court schedules will be altered when affected by Holidays as set out in Exhibit A to this rule.

(A) The Judge may by order further alter these court schedules as needed and as available courtroom space requires.

(p) Ex parte matters and emergency orders and writs will be considered at the opening of court each day prior to the commencement of trial or the regular court calendar or at such other time as the judges and/or court commissioners are available. Non-emergency matters shall be left with the Clerk and the judges/commissioner will consider the same when available.

(q) Special Settings. Any matter which will require more than ten minutes of argument per party shall be specially set at a time arranged with the Court.

Pleadings or other papers requiring action on the part of the Clerk of the Court (other than filing, stamping, docketing and placing in the court file) shall constitute action documents. Action documents shall include a special caption directly below the case number on the first page such as "Clerk's Action Required". The specific action required of the Clerk shall be stated with particularity in the body of the pleading or other paper requiring action on the part of the Clerk.

LR 80
COURT REPORTERS

A court reporter will not be provided for any matter heard in Douglas County Superior Court. All matters will be digitally audio recorded. If any party wishes any matter to be reported by a court reporter, that party is responsible to provide a court reporter.

LR 94.04 MARRIAGE DISSOLUTION ACTIONS

A. NON-CONTESTED DISSOLUTION HEARINGS.

(1) Hearing. Non-contested dissolution cases may be heard on a calendar set by the Superior Court Judge and Clerk. The days and times are set forth in LR 77. Non contested dissolution cases may also be presented to the Superior Court Judge in Chambers without the appearance of either party. For the Superior Court Judge to sign a non contested Decree of Dissolution, Legal Separation or other document, the parties must have executed all documents and have their signatures notarized, including any Joinder executed by the adverse party. The jurisdictional testimony and other testimony in support of the dissolution must be done in affidavit form and verified.

(2) Note for Non-contested Calendar. A notice of hearing on the non-contested calendar must be filed with the Clerk at least three court days before the date of hearing. The Clerk shall not place any case on the non-contested calendar unless the file shows one of the following:

(a) The opposing party has joined in the petition for dissolution of marriage and his or her signature is notarized on the joinder; or

(b) The opposing party has waived notice or has signed a consent to hearing on the date noted; or

(c) An order for default has been applied for or entered.

The Clerk shall not place any case on the non-contested calendar unless proof is filed that summons was served more than ninety (90) days before the date selected for hearing or that the case has been on file more than ninety (90) days and both parties have submitted to the jurisdiction of the court.

(3) Withdrawal of Consent. Before a decree is entered, a party may move to withdraw any consent or waiver previously given. Such motion must be supported by affidavit showing good cause and shall be noted for hearing on the show cause calendar.

(4) Order of Non-contested Calendar. The

order of the non-contested calendar will be as follows:

- (a) Matters where attorneys appear;
- (b) Pro se matters.

(5) Entry of Decree. At the time of hearing of a non-contested dissolution case, the necessary documents to be signed must be presented to the court for signature. If signed they shall be filed with the Clerk forthwith. For good cause shown, the court may extend the time for presentation.

(6) Disposition of Issues in Decree. No decree of dissolution shall be entered unless the decree disposes of all issues over which the court has jurisdiction relating to disposition of property and liabilities of the parties and support or maintenance of either spouse. For good cause shown, the court may in its discretion enter a decree of dissolution stating that it retains jurisdiction to dispose of issues relating to parenting and child support.

B. CONTESTED DISSOLUTIONS.

(1) Pretrial Forms. In all final hearings or trials in domestic relations matters, each party shall provide to the judge or commissioner and serve on the opposing party a written statement as to the issues in controversy at least three days prior to trial. The written statement may be in any form chosen by the attorney to convey the following:

- (a) A brief factual summary;
- (b) Issues in dispute [whether property, debts or custody];
- (c) Case law, if it will be argued, supporting your position;
- (d) Proposed distribution of assets, debts and proposed parenting plan and child support amount, if in dispute;
- (e) Areas of agreement.

If one of the parties is seeking maintenance or child support, both parties shall complete the financial declaration contained in Form A.

If the parties are in dispute as to the distribution of assets and debts, both parties shall complete Form LC 94.04 Exhibit B. The pretrial forms shall not be filed with the Clerk.

Unless explained otherwise by the parties, the values shown on the pretrial form for proposed distribution of assets shall be present cash value of any pension, retirement, profit sharing or other deferred benefit or financial security plan; the cash surrender value of all life insurance policies; the amounts of accounts receivable, inheritance due, and trust accounts; the fair market value of all other property including collections, antiques; and in the case of automobiles, the average between wholesale and retail blue book values.

(2) Enforcement. If either party fails to comply with paragraph B(1) set forth above, the trial judge may order such party or his attorney to pay an appropriate attorney's fee to the opponent for any additional work or delay caused by the failure to comply. If either party fails to comply, the trial date may be stricken.

(3) Continuances. Stipulations or motions to continue a case already on the trial calendar must be in writing, supported by a declaration showing sufficient grounds for the requested continuance. The moving party shall present a written order for entry.

C. CHILD CUSTODY OR PARENTING PLAN PROCEEDINGS

- (1) Parenting Plans.

(a) Proposed, Temporary and Permanent Parenting plans shall be in the form required by State law. Proposed temporary parenting plans need not have the dispute resolution and decision making sections completed.

D. DATING AND MAILING OF DECREES AND ORDERS.

(1) When any decree or order is filed in a dissolution matter, the attorney for the party presenting the order, or the party if the matter is presented pro se, shall immediately deliver or mail to the opposing party to the opposing party's last known address, or to opposing counsel, a true copy of the decree or order with the date of entry indicated on each copy. A declaration of mailing of such true copy shall be filed.

E. HEARINGS - SHOW CAUSE - PRELIMINARY AND TEMPORARY ORDERS.

(1) Hearings. See Local Rule 77.

(2) Hearing by Documentary Evidence. All show cause hearings pertaining to request for temporary support money and/or attorney's fees shall be heard and determined by documentary evidence only, unless the parties request that oral testimony be given and the court in its discretion agrees.

(3) Supporting Worksheet. A motion for order to show cause for temporary support shall be supported by a child support worksheet in the form prescribed by state law and may also include a financial declaration in the form designated in Exhibit A attached to this rule. No order shall be signed setting a show cause hearing for temporary support unless the signed worksheet accompanies the motion.

(4) Information Considered Notwithstanding Non-appearance. An affidavit or child support worksheet filed by a non-appearing respondent shall be considered by the court at the time of hearing on show cause hearings and upon hearing default dissolutions.

F. DISPOSAL OF PROPOSED PARENTING PLAN.

The Clerk is authorized to remove from the file and dispose of all proposed parenting plans after the Permanent Parenting Plan has been entered and the time for appeal has elapsed.

In request to have law enforcement assist in procuring a child or individual that petitioner alleges is being held in violation of a court order, custody decree or other lawful proceeding shall be done by writ of habeas corpus.

G. APPOINTMENT OF OPTIONAL GUARDIAN AD LITEM.

(1) Optional Guardian Ad Litem. In any domestic relations matter the court may, upon its own motion, or motion of either party, appoint a guardian ad litem to represent the interests of any child, or children, of the parties. If any decree illegitimizes a child or may result in a child becoming illegitimate, the court may require that a guardian ad litem be appointed for the child.

(2) Appointment. The guardian ad litem shall be appointed from the court-approved registry for Title 26 RCW. Said person shall have such powers, as granted by the court, to ascertain what is in the best interests of the child or children, and to take whatever steps the court deems appropriate to effectuate a result consistent with the best interest of the child or children.

(3) Duties of Guardian Ad Litem. The court may direct the guardian ad litem to report to the court, either orally or in writing. The guardian ad litem has the right to attend and participate at trial or any other proceeding, and shall be given all other rights

accorded a party, including notice. The guardian ad litem may be called as a witness at trial by either party, or the court.

H. MANDATORY INFORMATION PROGRAM FOR PARENTS

The Douglas County Superior Court finds that it is in the best interest of any child whose parents or custodians are involved in specific court proceedings to provide such parents with an educational workshop concerning the impact family restructuring has on their child. The workshop offers parents tools to help ensure that their child's emotional needs will not be overlooked during the legal processes, to encourage parents to agree on child-related matters, and to aid in maximizing the use of court time.

(1) Types of Proceedings Required. Each person named as a party in the following types of proceedings filed after January 1, 1999 must comply with Local Rule 94.04H:

1. Dissolution of Marriage with child(ren) under 18 years old;
2. Legal Separation or Declaration of Invalidity with child(ren) under 18 years old.
3. Petition to establish custody or visitation including paternity, and/or
4. Post-judgment petition involving custody or visitation.

(2) Service on Parties. The Clerk of the court shall provide a copy of this rule (LR 94.04H) to the initiating party for service upon all parties against whom relief is sought, together with a statement describing the program including contact telephone numbers, addresses, statement of costs, and an explanation of how to request a waiver or deferral of the program registration fee.

(3) Mandatory. Each party who files an appearance in a proceeding of the types described above in Section (1) shall complete the program unless exempted by the court. No final order approving any residential or parenting plan shall be entered without proof of completion of such education program by the parents or legal guardians unless otherwise ordered by the court.

(4) Ninety (90) Day Deadline. Each party shall attend and complete an approved parenting workshop within ninety (90) days of filing a proceeding specified in Section (1) above.

(5) Exemption. The Court may exempt one or both parties from completion of the program if, after reviewing the requesting party's motion and supporting affidavit, the Court determines that participation is unnecessary.

(6) Approved Program. The parent education program sponsored by the Washington State University (WSU) Extension Service is an approved program. Other programs may be approved by application to the Court.

(7) Proof of Completion. Upon completion of the program, the workshop provider shall issue a certificate of completion to each program participant. The certificate of completion shall be filed with the Clerk of the Court.

(8) Non-Complying Parties - Attorney's Fees Sanctions. A party who has completed the program shall have the right to

request entry of an order from the court compelling the non-complying party's completion of the program. Should the non-complying party fail to complete the program in a timely manner without good reason, the court shall enter an award of reasonable attorney fees incurred for obtaining an order for compliance in favor of the complying party who uses this option to force the non-complying party into compliance or other sanctions as set forth below.

(9) Other Sanctions. If upon order of the court a non-complying party continues to refuse participation, the refusal may be considered by the Court in making its ruling on issues that are in dispute and/or may be grounds for contempt.

(10) Fees. Each party shall pay the fee charged by the approved provider. The Court shall reduce the fee to fifteen dollars (\$15.00) whenever the filing fee has been waived. The court may waive the entire fee upon special application to the Court.

WRIT OF HABEAS CORPUS - POLICIES AND PROCEDURES

The following forms are adopted by this Local Rule of the Douglas County Superior Court:

Order to Issue Writ of Habeas Corpus and Warrant in Aid of Writ
Writ of Habeas Corpus
Warrant in Aid of Writ of Habeas Corpus

The text of the above forms may not be altered. Obsolete or altered forms will not be accepted by law enforcement.

A Habeas Corpus must be commenced by the filing of a signed and verified Petition. The Petition must set forth the information required by RCW 7.36.030. A mandatory Petition form has not been adopted.

The Order to Issue Writ must be signed by a Judge/Court Commissioner and filed with the clerk of the Superior Court. Obtain a certified copy of the Order to Issue Writ at the time of filing, as the certified copy will be necessary for the Sheriff's office. Filing fees, writ fees and certified copy fees will be payable to the Clerk of the Court at that time.

On filing the Order to Issue Writ, the Clerk of the Douglas County Superior Court will issue the Writ of Habeas Corpus and the Warrant in Aid of Writ of Habeas Corpus. The originals will be given to the petitioner's attorney.

The following must be provided to the Sheriff's office:

A certified copy of the Order to Issue Writ
The original Writ of Habeas Corpus
The original Warrant in Aid of Writ of Habeas Corpus
Information Sheet, which contains information regarding the parties and child(ren)
A copy of the Petition for Writ of Habeas Corpus
A copy of the most recent Order or Decree which grants petitioner custody
A recent photograph of the child(ren), if available
A recent photograph of respondent, if available
Payment of the base fee for service of the Writ. Mileage and additional services fees will be subsequently billed.

A law enforcement interview of the petitioner or petitioner's attorney is strongly encouraged in order to obtain information helpful towards locating the child(ren) and assuring officer safety.

The petitioner, petitioner's attorney, family members and private investigators may not accompany law enforcement during attempts to execute the Writ.

When a child is recovered, both petitioner and respondent

will be immediately notified by law enforcement. The child is then brought immediately before the Superior Court. A child will never be directed returned to the petitioner. If the Superior Court is not in session, then the child will be placed in temporary care through DSHS. Temporary care is avoided if at all possible and, unless specifically ordered by the Court, Writs are not served on weekends, holidays, or after Court hours.

RULE 94.04 H
MANDATORY PARENT EDUCATION WORKSHOP

H. MANDATORY INFORMATION PROGRAM FOR PARENTS

The Douglas County Superior Court finds that it is in the best interest of any child whose parents or custodians are involved in specific court proceedings to provide such parents with an educational workshop concerning the impact family restructuring has on their child. The workshop offers parents tools to help ensure that their child's emotional needs will not be overlooked during the legal processes, to encourage parents to agree on child-related matters, and to aid in maximizing the use of court time.

(1) Types of Proceedings Required. Each person named as a party in the following types of proceedings filed after January 1, 1999 must comply with Local Rule 94.04H:

1. Dissolution of Marriage with child(ren) under 18 years old;
2. Legal Separation or Declaration of Invalidity with child(ren) under 18 years old.
3. Petition to establish custody or visitation including paternity, and/or
4. Post-judgment petition involving custody or visitation.

(2) Service on Parties. The Clerk of the court shall provide a copy of this rule (LR 94.04H) to the initiating party for service upon all parties against whom relief is sought, together with a statement describing the program including contact telephone numbers, addresses, statement of costs, and an explanation of how to request a waiver or deferral of the program registration fee.

(3) Mandatory. Each party who files an appearance in a proceeding of the types described above in Section (1) shall complete the program unless exempted by the court. No final order approving any residential or parenting plan shall be entered without proof of completion of such education program by the parents or legal guardians unless otherwise ordered by the court.

(4) Ninety (90) Day Deadline. Each party shall attend and complete an approved parenting workshop within ninety (90) days of filing a proceeding specified in Section (1) above.

(5) Exemption. The Court may exempt one or both parties from completion of the program if, after reviewing the requesting party's motion and supporting affidavit, the Court determines that participation is unnecessary.

(6) Approved Program. The parent education program sponsored by the Washington State University (WSU) Extension Service is an approved program. Other programs may be approved by application to the Court.

(7) Proof of Completion. Upon completion of the program, the workshop provider shall issue a certificate of completion to each program participant. The certificate of completion shall be filed with the Clerk of the Court.

(8) Non-Complying Parties - Attorney's Fees Sanctions. A party who has completed the program shall have the right to request entry of an order from the court compelling the non-complying party's completion of the program. Should the non-complying party fail to complete the program in a timely manner without good reason, the court shall enter an award of reasonable attorney fees incurred for obtaining an order for compliance in favor of the complying party who uses this option to force the non-complying party into compliance or other sanctions as set forth below.

(9) Other Sanctions. If upon order of the court a non-complying party continues to refuse participation, the refusal may be considered by the Court in making its ruling on issues that are in dispute and/or may be grounds for contempt.

(10) Fees. Each party shall pay the fee charged by the approved provider. The Court shall reduce the fee to fifteen dollars (\$15.00) whenever the filing fee has been waived. The court may waive the entire fee upon special application to the Court.

Adopted Effective September 1, 2002

LR 96.04 CHANGE OF NAME OF STEPCHILD

When changing the name of a child under the age of 18 to the name of the child's stepfather, the petitioner shall give notice of such proceeding except as provided by statute to:

- a. The father, if the child has been born during marriage, or
- b. The father, if paternity is established, or
- c. Any other person with a paternal interest by virtue of an adoption.

In addition, written consent shall be required of any child over 14 years of age.

LR 98.04 ESTATES - PROBATE

A. Ex Parte. All probate matters that are not contested and in which notice is not required by statute, rule, or duly filed request for notice under R.C.W. 11.28.240 or where such notice has been waived, may be done ex parte.

B. Contents of File for Ex Parte Presentation. The following documents will be presented before ex parte presentation.

- (1) Original will.
- (2) Affidavits of subscribing witnesses.
- (3) Certified copy of Death Certificate.
- (4) Order admitting will to probate or order appointing administrator if petition is by surviving spouse.
- (5) Petition for order of solvency if solvency is requested.
- (6) An inventory or partial inventory of assets and debts sufficient to prove solvency.
- (7) An order of solvency.

C. Presentation by Mail. An original probate application may be presented by mail under the following conditions.

(1) All documents required by 98.04(B) shall be presented in the mailing.

(2) All documents shall bear the personal original signature of counsel or party pro se presenting same.

(3) Covering Letter. All documents shall be accompanied by a covering letter of explanation personally signed by the presenter and shall request the Clerk to deliver the documents to a Judge or a Court Commissioner for signing.

(4) Return Envelope. A self-addressed return envelope bearing sufficient postage paid shall be included for the return of any requested conformed copies.

LR 98.09A GUARDIANSHIP FUNDS

In all guardianships in which the funds are held by the guardian as trustee for the ward, the funds shall be placed in a designated bank account and the passbook for such account shall be deposited with the Clerk of the Court and withdrawals made from such account only upon order of the Court.

The tax identification number or social security number of the ward should be included in any order where the Clerk of the Court is required to invest funds.

LR 98.10
DOUGLAS COUNTY SUPERIOR COURT GUARDIAN AD LITEM ROTATIONAL REGISTRY
(TITLES 11 AND 26)

SCOPE/PURPOSE

This local rule covers the maintenance and administration of the Guardian ad Litem Registry maintained by the Registry Administrator.

DEFINITIONS

None.

POLICY

A. Registry Administration

1.1 The court shall maintain and administer the GAL registries. These registries are limited to Titles 11.88 and 26 GAL's. These requirements and procedures also apply to persons not listed on a registry who are appointed to serve as a Guardian ad Litem in a field for which there is a registry.

1.2 The Court shall maintain an application form and background information records pertaining to each person on a registry. Persons listed on the registry shall reapply and update background information annually on a date specified for the registry. All application and background information, with the exception of personal identifying information in family law cases and pending complaints, shall be available for public inspection.

1.3 Persons shall be selected to serve on the registry at

the discretion of the Court giving due consideration to:

- (1) having a sufficient number of GAL's available to fulfill the requests for appointment;
- (2) achieving and maintaining diversity; and
- (3) retaining panels of persons with substantial experience and special knowledge within given fields. In some cases there may be more qualified applicants that will be needed or would benefit the program, so that not all persons applying will be selected.

1.4 The court shall periodically sponsor or approve training programs which registry applicants shall be required to attend to maintain and improve their level of proficiency. Training programs may be co-sponsored or offered by the state or local bar association under the oversight of the court.

1.5 The registry may be reconstituted periodically after and open application period has been announced. The court may allow additional applicants to be added to the registry periodically.

1.6 The court may impose an application processing fee and/or charge a fee for the training programs.

B. Education and Experience Requirements

2.1 Attorneys

- a. Member of the Washington State Bar Association in good standing; and
- b. For initial placement on registry, completion of any training as required by statute. For retention on registry, completion of any continuing training, as may be required by statute or the court from time to time.

2.2 Non-attorneys

- a. For initial placement on registry, completion of any training as required by statute. For retention on registry, completion of any continuing training, as may be required by statute or the court from time to time.
- b. Eligibility to be determined by the court.

C. Application

Each person requesting to be listed on the Guardian Ad Litem Registry (or registries) shall annually submit an application on the current form provided by the court, which shall include the following:

- 3.1 The name, business address, and telephone number of the applicant.
- 3.2 The level of formal education of the applicant and, if the applicant is an attorney, the year admitted to practice in Washington State and any other States in which the attorney is licensed to practice.
- 3.3 A listing of training relating the GAL's duties.
- 3.4 The number of years experience as a GAL.
- 3.5 The number of appointments as a GAL and the County or Counties of appointment.
- 3.6 The applicant's criminal history as defined by RCW 9.94A.030.
- 3.7 Evidence of the person's knowledge, training, and experience.
- 3.8 A statement describing the nature, status, and outcome of any complaints, investigations, disciplinary actions, lawsuits, or liability claims lodged against the GAL related to the persons duties as a GAL and any orders for removal of the GAL entered prior to the completion of the GAL's duties for any reason other than a conflict of interest where the GAL had no prior knowledge that the conflict existed.
- 3.9 A description of the fees charged by the applicant

(hourly rate and any required retainer) and a statement of the applicant's willingness to accept cases on a reduced fee basis.

3.10 Agreement to advise the court immediately in the event of any complaint, investigation, or action being commenced related to the applicants duties as a GAL in the instant or any other case which could lead to:

1. Discipline of the applicant;
2. The suspension or revocation of the applicant's professional license(s).

3.11 Agreement to advise the court immediately upon the filing of criminal charges for a felony or a crime involving allegations of theft, dishonesty, or moral turpitude.

D. Appointment of a Guardian ad Litem from Registry

4.1 A party needing an appointment from a GAL registry shall serve a written request upon the Registry Administrator, who shall appoint as GAL that person whose name next appears on the registry on a rotational basis, subject to that person's acceptance of the appointment.

4.2 The person appointed by the Registry Administrator shall serve upon the parties a notice of appointment.

E. Retention on Registry

5.1 Persons on the registry shall promptly inform the court of any temporary unavailability to serve, or of their intent to resign from the registry.

5.2 A person shall remain on the registry unless the person fails to maintain a current application with attachments or the person is removed or suspended as set forth in Section F.

5.3 A person may be denied listing on, or may be temporarily suspended from, the registry for any reason that places the suitability of the person to act as GAL in question.

5.4 A GAL who ceases to be on the registry and who still has active or incomplete cases shall immediately report this circumstance to the Registry Administrator, who shall reassign such cases.

5.5 A person's retention on the registry shall be reviewed upon the court's receipt of a complaint regarding performance in office or the court's receipt of adverse information regarding the suitability of a person to serve as a GAL. Complaints shall be reviewed in accordance with Section F.

F. Complaint Procedure

6.1 There shall be a complaint review committee consisting of the Superior Court Presiding Judge, the Juvenile Court Administrator and a representative of the Chelan/Douglas Counties Bar Association.

6.2 All complaints must be in writing and must be submitted to the Superior Court Presiding Judge.

6.3 Upon receipt of a written complaint, the Presiding Judge shall convene the Complaint Review Committee within 10 business days to review the complaint. Upon review of the complaint, the complaint Review Committee shall either:

- a. Make a finding that the complaint has no merit on its face, and decline to review the complaint and so inform the complainant; or

- b. Make a finding that the complaint does appear to have merit and request a written response from the GAL within 10 business days, detailing the specific issues in the complaint to which the Committee desires a response. The Committee shall provide the GAL with a copy of the original complaint. A GAL's failure to respond within the required 10 business days will result in the immediate suspension of the GAL from all registries.

c. In considering whether the complaint has merit, the Complaint Review Committee shall consider whether the complaint alleges the GAL has:

1. Violated the code of conduct;
2. Misrepresented his or her qualifications to serve as GAL;
3. Not met the annual update requirements set forth in Paragraph 1.2 of this policy;
4. Breached the confidentiality of the parties;
5. Falsified information in a report to the court or in testimony before the court;
6. Failed to report abuse of a child;
7. Communicated with a judicial officer ex-parte;
8. Represented the court in a public forum without prior approval of the court;
9. Violated state or local laws, rules, or this policy in the person's capacity as a GAL; or,
10. Taken or failed to take any other action which would reasonably place the suitability of the person to serve as GAL in question.

6.4 Upon receipt of a written response to a complaint from the GAL, the Complaint Review Committee shall, within 10 business days, make a finding as to each of the issues delineated in the Committee's letter to the GAL that either there is no merit to the issues based upon the GAL's response or that there is merit to the issue. The Review Committee may, at their discretion, extend the time for entering findings to conduct additional investigation if necessary, however, in no case shall that extension be for more than 20 business days and the GAL shall be notified.

6.5 The Complaint Review Committee shall have the authority to issue a written admonishment, a written reprimand, refer the GAL to additional training, recommend to the court, upon its own motion to remove the GAL from the instant case, or suspend or remove the GAL from the registry. In considering a response, the Committee shall take into consideration any prior complaints which resulted in an admonishment, reprimand, referral to training, removal of the GAL from a particular case, or suspension or removal from a registry. If a GAL is listed on more than one registry, the suspension or removal may apply to each registry the GAL is listed on at the discretion of the Committee.

6.6 The complainant and the GAL shall be notified in writing of the Committee's decision within 10 business days of receipt of the GAL response.

6.7 A GAL may, within 5 business days of receipt of notification that they have been suspended or review the Committee's decision. The court shall designate a hearing officer. The sole purpose of the hearing shall be to review the appropriateness of the suspension or removal from the registry. The hearing officer shall review the written record of the instant case and any prior complaints upon which the Committee relied and hear oral arguments from the GAL and a representative of the Committee. Said hearing shall be conducted within 20 days of the receipt of the request for the hearing.

G. Payment of Guardian ad Litem

7.1 There shall be no payment of a GAL by anyone, except as authorized by order of the court.

7.2 Each order appointing GAL shall set forth the hourly rate of compensation for the investigative/legal work; source of payment, if determined; and unless waived, shall

require the GAL to seek court authorization to provide services in excess of fifty hours per case, not including court appearances.

7.3 The order appointing a GAL may include a provision for a retainer fee, as evidenced by itemized accounting, shall be returned to the parties according to their proportionate responsibility for payment of the GAL.

7.4 All fee requests by the GAL submitted to the court shall contain time records, which distinguished investigative/legal, administrative/clerical, and travel time and shall also be served upon the parties.

7.5 GAL fees shall be the responsibility of a party or parties unless the court has entered and order authorizing payment at public expense.

H. Appointment Procedures

8.1 Requesting Attorney - Send a letter to the registry administrator requesting the appointment of a GAL. The letter should state the name of the case the GAL is for, the case number, and a brief outlining of the case. The outline should provide sufficient information for the prospective GAL to make a determination as to whether or not he or she will accept the case.

8.2 Registry Administrator - The registry administrator will select the next available GAL appearing on the registry and fax or mail a Notice of Appointment to the GAL along with the letter received from the requesting attorney.

a. Check the GAL Rotational Assignments list and determine who is to receive the next appointment.

b. Check the GAL Appointment Summaries to determine the last appointment number assigned.

c. Write in the next Appointment Number to the GAL to receive the assignment on the Rotational Assignment List.

d. Complete a Notice of Appointment form and fax it to the GAL.

e. Prepare and Assignment Summary Sheet.

8.3 Guardian Ad Litem - The GAL may contact the requesting attorney for more information. The GAL will return the Notice of Appointment to the Registry Administrator. If the GAL rejects the appointment or a conflict exists, the process goes back to step two. If the GAL accepts the appointment, the GAL shall comply with all the provisions of the appropriate RCW.

8.4 Registry Administrator - Upon return receipt of a Notice of Appointment, which has been accepted, the Registry Administrator shall forward a copy of the acceptance to the requesting attorney.

8.5 Requesting Attorney - Upon receipt of a Notice of Appointment that has been accepted, the requesting attorney shall see that an Order of Appointment is filed with the Court. A copy of the Order of Appointment shall be provided to the Registry Administrator.

Adopted Effective September 1, 2002

LRCrR 1.2
COURT COMMISSIONER AUTHORITY

In adult criminal cases, any Court Commissioner appointed to serve in the Douglas County Superior Court and qualified under Article 4, Section 23 of the Constitution

of the State of Washington shall have the power, authority and jurisdiction, concurrent with the Superior Court Judges, to preside over arraignments, preliminary appearances, initial extradition hearings, and noncompliance proceedings pursuant to RCW 9.94A.200; to accept pleas; to appoint counsel; to make determinations of probable cause; to set, amend, and review conditions of pretrial release; to set bail; to set trial and hearing dates; to authorize continuances and to accept waivers of the right to speedy trial.

Adopted Effective September 1, 2002

LCrR 2.2 WARRANT OF ARREST AND SUMMONS

c) Warrants and Fax Machine. Law enforcement officials in Douglas County may send by Fax machine a motion, affidavit and order for a search warrant or an arrest warrant to the Superior Court in Waterville. Upon authorization and entry by the Court, a signed copy of the order shall be sent back by Fax machine to the law enforcement official for execution. Each faxed document shall indicate the date and time sent. The original of the order shall be presented and signed at the earliest possible time for filing with the Court.

Warrants sent by Fax machine to the Superior Court Judge for Douglas County shall be sent to Fax number (509) 745-8027.

LCrR 3.1 RIGHT TO AND ASSIGNMENT OF COUNSEL

Indigent defendants shall have counsel appointed to represent them in all criminal cases unless the right to counsel is waived. Indigency shall mean an inability to pay an attorney a reasonable fee for the services which appear to be required by reasons of the crime charged without substantial hardship to himself or his family. Defendants who request appointment of counsel may be required to promptly execute and file a financial disclosure under oath, which shall substantially comply with the form set forth in Exhibit A, or the defendant may be required to provide the information orally to the court.

All appointments of counsel by reason of indigency are expressly contingent upon indigency and full disclosure of assets. Where income or assets are discovered or change subsequent to appointment which enable the defendant to afford counsel, or if the defendant can afford partial payment, fees may be ordered to be reimbursed to the court.

Upon appointment of counsel for indigent criminal defendants or other litigants, the Clerk shall promptly provide counsel with notice of the appointment.

Attorneys representing defendants in criminal cases, except when appointed by the Court, must serve prompt written notice of their employment upon the prosecuting attorney and file the same with the Clerk of the Court. To withdraw, an attorney must serve a motion to withdraw upon the prosecuting attorney, file the same with the Clerk of the Court, and note the same for a hearing. No withdrawal will be granted by the Court, except for cause deemed sufficient by the Court. Approval of withdrawal may, if necessary to prevent a continuance of a trial or hearing, be denied, and such attorney be required to proceed with the trial.

LCrR 3.4 COURT APPEARANCE OF CRIMINAL DEFENDANTS

All preliminary and timely arrangements for the court appearance of any defendant held in custody shall be the responsibility of the deputy prosecutor in charge of the case, who shall advise the jail staff of the defendant's required appearance.

LRCrR 3.4(d) (2)

In criminal matters, in addition to those proceedings allowed by CrR 3.4(d)(1), all trial court proceedings, including, but not limited to, entry of a statement of Defendant on plea of guilty and sentencing, may be conducted by video conference by agreement of all parties in writing or on the record.

Adopted Effective September 1, 2002

LCrR 4.1 PROCEDURES PRIOR TO TRIAL

Court commissioners shall have authority in all matters allowed by the Constitution of the State of Washington, case law, and statutes; including, but not limited to, the authority noted in RCW 2.24.040 to accept guilty pleas.

[Effective June 8, 2000]

LCrR 4.2 PLEAS AND CONTINUANCES

If a criminal case is set for trial but will be disposed of by a change of plea, the guilty plea shall be heard on or before the trial date. The court may authorize a continuance and hear the change of plea at a later date.

LCrR 4.5 OMNIBUS HEARINGS

(d) Motions. All rulings of the Court at omnibus hearings or on motions shall be binding on the parties and shall not be relitigated at trial.

(i) If there is no dispute regarding omnibus requests, the motion shall be signed by both parties and presented to the Court ex parte for signature before date of omnibus hearing.

LCrR 7.2 PRESENTENCE INVESTIGATION

(a) When required; Time of Service. Unless otherwise directed by the Court, in all cases where a person is to be sentenced for commission of a felony, the prosecuting attorney and the defendant's attorney shall, not less than ten days before the sentencing date, serve a copy of any presentence report upon the opposing party, a copy to the sentencing Judge, and send the original to the Clerk of the Court. The Community Corrections Office shall serve a copy of its report upon the prosecuting attorney and the defense attorney and the original to the sentencing judge not less than ten days before the sentencing date.

(b) Contents of Defendant's Report. The defendant's presentence report which requests a sentence outside of the standard range shall outline any proposed programs, specifically state, among the other details, what community resources are available for implementation of the program.

If the defendant is not requesting a sentence outside of the standard range, the defense presentence report shall indicate the recommended sentence, the type of program that should be afforded the defendant, and reasons therefore.

(c) Penalties for Violation. A violation of this rule may result in the refusal of the Court to proceed with the sentencing until after reports have been served and filed as directed herein, and in the imposition of terms, or the Court may proceed to impose sentence without regard to the violation.

LCrR 7.3 PAYMENT OF COSTS

In all criminal cases, except where the Court Order is to the contrary, the Judgment and Sentence shall provide that the Clerk shall disperse monies received from the criminal defendant in the following order:

- (a) Restitution
- (b) Crime Victims Compensation
- (c) Court Costs
- (d) Attorneys Fees
- (e) Drug Fund
- (f) Fines

LMAR 1.1 APPLICATION OF RULES - PURPOSE AND DEFINITIONS

(a) Purpose. The purpose of mandatory arbitration of civil actions under RCW 7.06 as implemented by the Mandatory Arbitration Rules is to provide a simplified and economical procedure for obtaining the prompt and equitable resolution of disputes involving claims of \$50,000 or less. The Mandatory Arbitration Rules as supplemented by these local rules are not designed to address every question which may arise during the arbitration process, and the rules give considerable discretion to the Arbitrator. The Arbitrator should not hesitate to exercise that discretion. Arbitration hearings should be informal and expeditious, consistent with the purpose of the statutes and rules.

LMAR 1.3 RELATIONSHIP TO THE SUPERIOR COURT JURISDICTION
AND OTHER RULES - MOTIONS

All motions before the Court relating to mandatory arbitration shall be noted on the civil motions calendar in accordance with Local Rule 77, except as otherwise provided in these rules arbitration.

LMAR 2.1
TRANSFER TO ARBITRATION

(a) Statement of Arbitrability. In every civil case the party filing the Note for Trial Docket provided by Civil Rule 40 shall, upon the form prescribed by the court, complete a Statement of Arbitrability.* Within 14 days after the Note for Trial and Statement of Arbitrability have been served and filed, any party disagreeing with the Statement of Arbitrability or willing to stipulate to arbitration shall serve and file a response to the Statement of arbitrability on the form prescribed by the Court.** In the absence of such response, the Statement of Arbitrability shall be deemed correct, and the case shall be deemed set for arbitration. If a party asserts that its claim exceeds \$50,000 or seeks relief other than a money judgment, the case is not subject to arbitration except by stipulation.

(b) Failure to File - Amendments. A party failing to serve and file an original response within the time prescribed may later do so only upon leave of court. A party may amend the Statement of Arbitrability or response at any time before assignment of an Arbitrator or assignment of a trial date and thereafter only upon leave of court for good cause shown.***

(c) By Stipulation. A case in which all parties file a stipulation to arbitrate under MAR 8.1 will be placed on the arbitration calendar regardless of the nature of the case or amount in controversy.****

(d) Right to a trial by jury shall be preserved for all cases subject to mandatory arbitration until ten (10) days after a notice of appeal of the Arbitrator's decision is filed with the Douglas County Superior Court Clerk's Office. On or before the tenth day after the notice of appeal is filed, the party requesting the jury shall pay the jury fee. The right to a jury shall be demanded at the time that a trial setting is requested, but the payment of the jury fee shall be as provided herein.

* Form LMAR 2.1(a)1
** Form LMAR 2.1(a)2
*** Form LMAR 2.1(b)
**** Form LMAR 2.1(c)

LMAR 2.3 ASSIGNMENT TO ARBITRATOR

(a) Generally; Stipulations. When a case is set for arbitration, a list of five proposed arbitrators will be furnished to the parties.* A master list of arbitrators will be made available upon request. The parties are encouraged to stipulate to an arbitrator.** In the absence of a stipulation, the arbitrator will be chosen from among the five proposed arbitrators in the manner defined by this rule.

(b) Response by Parties. Each party may, within 14 days after the list of proposed arbitrators is furnished to the parties, nominate one or two arbitrators and strike two arbitrators from the list. If both parties

respond, an arbitrator nominated by both parties will be appointed. If no arbitrator has been nominated by both parties, the Arbitration Administrator will randomly appoint an arbitrator from among those not stricken by either party.

(c) Response by Only One Party. If only one party responds within 14 days, the Arbitration Administrator will appoint an arbitrator nominated by that party.

(d) No Response. If neither party responds within 14 days, the Arbitration Administrator will randomly appoint one of the five proposed arbitrators.

(e) Additional Arbitrators for Additional Parties. If there are more than two adverse parties, all represented by different counsel, two additional proposed arbitrators shall be added to the list for each additional party so represented with the above principles of selection to be applied. The number of adverse parties shall be determined by the Arbitration Administrator, subject to review by the Presiding Judge.

* Form LMAR 2.3(a)1

** Form LMAR 2.3(a)2

LMAR 3.1 QUALIFICATIONS

(a) Arbitration Panel. There shall be a panel of arbitrators in such numbers as the Superior Court Judge may from time to time determine. A person desiring to serve as an arbitrator shall complete an information sheet on the form prescribed by the Court. A list showing the names of arbitrators available to hear cases and the information sheets will be available for public inspection in the Arbitration Administrator's Office. The oath of office on the form prescribed by the Court must be completed and filed prior to an applicant being placed on the panel.

(b) Refusal; Disqualification. The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the Arbitration Administrator immediately if refusing to serve or if any cause exists for the arbitrator's disqualification from the case upon any of the grounds of interest, relationship, bias or prejudice set forth in CJC Cannon 3(c) governing the disqualification of judges. If disqualified, the Arbitrator must immediately return all materials in a case to the Arbitration Administrator.

LMAR 4.2 DISCOVERY

In determining when additional discovery beyond that directly authorized by MAR 4.2 is reasonably necessary, the Arbitrator shall balance the benefits of discovery against the burdens and expenses. The Arbitrator shall consider the nature and complexity of the case, the amount of controversy, values at stake, the discovery that has already occurred, the burdens on the party from whom discovery is sought, and the possibility of unfair surprise which may result if discovery is restricted. Authorized discovery shall be conducted in accordance with the civil rules except that motions concerning discovery shall be determined by the Arbitrator.

LMAR 5.1 NOTICE OF HEARING - TIME AND PLACE -

CONTINUANCE

An arbitration hearing may be scheduled at any reasonable time and place chosen by the Arbitrator.* The Arbitrator may grant a continuance without court order. The parties may stipulate to a continuance only with the permission of the Arbitrator. The Arbitrator shall give reasonable notice of the hearing date and any continuance to the Arbitration Administrator.**

*Form LMAR 5.1(a)

**Form LMAR 5.1(b)

LMAR 5.2 PREHEARING STATEMENT OF PROOF - DOCUMENTS FILED WITH THE COURT

In addition to the requirements of MAR 5.2, each party shall also furnish the Arbitrator with copies of pleadings and other documents contained in the court file which that party deems relevant. The court file shall remain with the County Clerk. The Arbitrator shall strictly enforce the provisions of MAR 5.2 and is encouraged to withhold permission to present evidence at time of hearing if the parties have failed to comply with this rule.

LMAR 5.3 CONDUCT OF HEARING - WITNESSES - RULES OF EVIDENCE

(a) Oath or Affirmation. The Arbitrator shall place a witness under oath or affirmation before the witness presents testimony.

(b) Recording. The hearing may be recorded electronically or otherwise by any party at his or her expense.

(c) Certain Documents Presumed Admissible. The documents listed below, if relevant, are presumed admissible at an arbitration hearing, but only if (1) the party offering the document serves on all parties a notice, accompanied by a copy of the document and the name, address, and telephone number of its author or maker, at least 14 days prior to the hearing in accordance with MAR 5.2; and (2) the party offering the document similarly furnishes all other parties with copies of all other related documents from the same author or maker. This rule does not restrict argument or proof relating to the weight of the evidence after hearing all of the evidence and the arguments of opposing parties. The documents presumed admissible under this rule are:

1. A bill, report, chart, or record of a hospital, doctor, dentist, registered nurse, licensed practical nurse, physical therapist, psychologist or other health care provider, on a letterhead or billhead;

2. A bill for drugs, medical appliances or other related expenses on a letterhead or billhead;

3. A bill for or an estimate of property damage on a letterhead or billhead. In the case of an estimate, the party intending to offer the estimate shall forward with the notice to the adverse party, a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or in part, attaching a copy to the receipted bill showing the items of repair and the amount paid.

4. A police, weather, wage loss, or traffic signal report, or standard United States government life

expectancy table to the extent it is admissible under the Rules of Evidence, but without the need for formal proof of authentication or identification;

5. A photograph, x-ray, drawing, map, blueprint or similar documentary evidence, to the extent it is admissible under the Rules of Evidence, but without the need for formal proof of authentication or identification;

6. The written statement of any other witness, including the written report of an expert witness, and including a statement of opinion which the witness would be allowed to express if testifying in person, if it is made by affidavit or by declaration under penalty of perjury;

7. A document not specifically covered by any of the foregoing provisions but having equivalent circumstantial guarantees of trustworthiness, the admission of which would serve the interests of justice.

(e) Opposing Party May Subpoena Author or Maker as Witness. Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross-examination.*

*Form 5.3(e)1 or Form 5.3(e)2

LMAR 6.1 FORM AND CONTENT OF AWARD

Form. The award shall be prepared on the form attached hereto.

(b) Exhibits. All exhibits offered during the hearing shall accompany the award and be filed with the Clerk.

*Form LMAR 6.1(a)

LMAR 6.2 FILING OF AWARD

A request by an Arbitrator for an extension of time for the filing of an award under MAR 6.2 may be presented to the Judge, ex parte. The Arbitrator shall give the parties notice of any extension granted.

LMAR 6.3 JUDGMENT ON AWARD

(a) Presentation. A judgment on an award shall be presented to the Judge, by any party, on notice in accordance with MAR 6.3.

LMAR 7.1 REQUEST FOR TRIAL DE NOVO - CALENDAR

Every case transferred to the arbitration calendar shall maintain its position on the trial calendar as if the case had not been transferred to arbitration. A case that has been given a trial date will not lose that date by reason of being transferred to arbitration. The

case shall be stricken from the trial calendar after the 20-day period within which a party may request a trial de novo has elapsed.

*Form LMAR 7.1

LMAR 7.2 PROCEDURE AT TRIAL

The Clerk shall seal arbitration awards at the time they are filed.

LMAR 8.1 STIPULATION - EFFECT ON RELIEF GRANTED

If a case not otherwise subject to mandatory arbitration is transferred to arbitration by stipulation, the Arbitrator may grant any relief which could have been granted if the case were determined by a judge.

LMAR 8.4 TITLE AND CITATION

These rules are known and cited as the Douglas County Mandatory Arbitration Rules. LMAR is the official abbreviation.

LMAR 8.5 COMPENSATION OF ARBITRATOR

(a) Generally. Arbitrators shall be compensated in the same amount and manner as Judges Pro Tempore of the Superior Court; provided, however, that said compensation shall not exceed \$600.00 for any case unless prior approval is granted by a judge. Hearing time and reasonable preparation time are compensable.

(b) Form. When the award is filed, the Arbitrator shall submit to the Court a request for payment on a form prescribed by the Court. The Judge shall determine the amount of compensation and costs to be paid.

LMAR 8.6 ADMINISTRATION

The Arbitration Administrator, under the supervision of the Superior Court Judge, shall supervise arbitration under these rules and perform any additional duties which may be delegated by the judge.

LR 5 EXHIBIT A - CASE INFORMATION SHEET - ACROBAT FORMAT

The contents of this item are only available [on-line](#).

LR 7 EXHIBIT A - NOTE FOR MOTION

The contents of this item are only available [on-line](#).

LR 16 APPENDIX A - ORDER FOR PRETRIAL CONFERENCE

The contents of this item are only available [on-line](#).

LR 16 APPENDIX B - PRETRIAL ORDER FORM

The contents of this item are only available [on-line](#).

LR 77 EXHIBIT A - HOW HOLIDAYS WILL AFFECT THE SCHEDULES

The contents of this item are only available [on-line](#).

WARRANT WARRANT IN AID OF WRIT OF HABEAS CORPUS

The contents of this item are only available [on-line](#).

ORDER ORDER TO ISSUE WRIT OF HABEAS CORPUS AND WARRANT IN AID OF WRIT

The contents of this item are only available [on-line](#).

WRIT WRIT OF HABEAS CORPUS

The contents of this item are only available [on-line](#).

DECLARATION DECLARATION OF INDIGENCY

The contents of this item are only available [on-line](#).

LMAR 2.1(A)1 FORM -- NOTE FOR TRIAL SETTING AND INITIAL STATEMENT OF ARBITRABILITY

The contents of this item are only available [on-line](#).

LMAR 2.1(A)2 FORM -- RESPONSE TO NOTE FOR TRIAL SETTING AND INITIAL STATEMENT OF ARBITRABILITY

The contents of this item are only available [on-line](#).

LMAR 2.1(B) FORM -- AMENDED STATEMENT OF ARBITRABILITY

The contents of this item are only available [on-line](#).

LMAR 2.1(C) FORM -- STIPULATION TO ARBITRATION

The contents of this item are only available [on-line](#).

LMAR 2.3(A)1 FORM -- NOTICE OF PROPOSED ARBITRATORS

The contents of this item are only available [on-line](#).

LMAR 2.3(A)2 FORM -- STIPULATION TO ARBITRATOR

The contents of this item are only available [on-line](#).

LMAR 5.1(A) FORM -- NOTICE OF ARBITRATION HEARING DATE

The contents of this item are only available [on-line](#).

LMAR 5.1(B) FORM -- ORDER OF CONTINUANCE OF ARBITRATION HEARING DATE

The contents of this item are only available [on-line](#).

LMAR 5.3(E)1 SUBPOENA

The contents of this item are only available [on-line](#).

LMAR 5.3(E)2 SUBPOENA DUCES TECUM

The contents of this item are only available [on-line](#).

LMAR 6.1(A) ARBITRATION AWARD

The contents of this item are only available [on-line](#).

LMAR 7.1 FORM -- REQUEST FOR TRIAL DE NOVO AND FOR CLERK TO SEAL THE AWARD

The contents of this item are only available [on-line](#).
